

# DEQ's Renewable Energy Permits by Rule

Carol C. Wampler  
Department of Environmental Quality  
Richmond, Virginia

Status Report for JCOTS Energy  
Advisory Committee  
November 7, 2012



Virginia General Assembly  
**“Small Renewable Energy  
Projects” Legislation**  
**HB 2175 & SB 1347**  
**Approved: April 8, 2009**





*Legislation directs DEQ to develop by  
regulations*

**“permits by rule . . . for the  
construction and operation of small  
renewable energy projects,**

**including such conditions and  
standards necessary to protect the  
Commonwealth’s natural resources”**

**What is a “small  
renewable energy  
project”?**

cing



100 MW

# An electrical generation facility producing electricity from . . .

- biomass
- energy from waste < 20 MW
- municipal solid waste





# WHAT IS A “PERMIT BY RULE”?



# A Permit by Rule (PBR) is . .

- Expedited permitting process used by DEQ for certain solid waste facilities & now for renewable energy
- Regulation stating “up front” the criteria that all applicants must meet
- Requirement that applicant submit docs/certification that has met requirements
- Requirement that DEQ review submission & consult with other SNR agencies
- If complete & adequate, then notification by DEQ within **90 days** that project is authorized under the PBR



# Status of PBR Regulatory Implementation

# WIND

- 22 Regulatory Advisory Panel (RAP) Meetings;  
consensus on all but 2 issues
- 2 Public Comment Periods
- 1 Public Hearing
- 1 Public Meeting
- Approval by DEQ Director on  
October 22, 2010
- Executive Review
- **Regulation Effective on Dec. 22, 2010**
- **Agency Guidance developed & posted**



# SOLAR

- 4 RAP Meetings  
Consensus on all issues
- Proposal approved by DEQ Director in December 2010
- Executive Review
- Public Comment Period
- Regulation Effective on July 18, 2012
- Agency Guidance developed & posted

# COMBUSTION

- Includes biomass, energy from waste, & municipal solid waste projects
- 7 RAP Meetings; consensus on all issues
- Approval by DEQ Director on November 8, 2011
- Executive Review
- Public Comment Period ends December 10, 2012



# WATER RELATED

Code of Virginia

§10.1-1197.6 A

*. . . the Department shall develop . . . a permit by rule or permits by rule if it is determined by the Department that one or more such permits by rule are necessary for the construction and operation of small renewable energy projects . . . .*

# WATER RELATED

- Includes falling water, wave motion, tides, & geothermal projects
- 2 RAP meetings; consensus on all issues
- Informal public comment period – no comments
- RAP's recommendations approved by Director on December 2, 2011 . . . as follows:





# **No Water Related PBR is necessary at this time**

- DEQ is **pre-empted** by FERC from promulgating regulations (e.g., hydropower) **or** Virginia **lacks sufficient natural resources** for commercial-scale development (e.g., geothermal)
- DEQ will re-evaluate by 2014

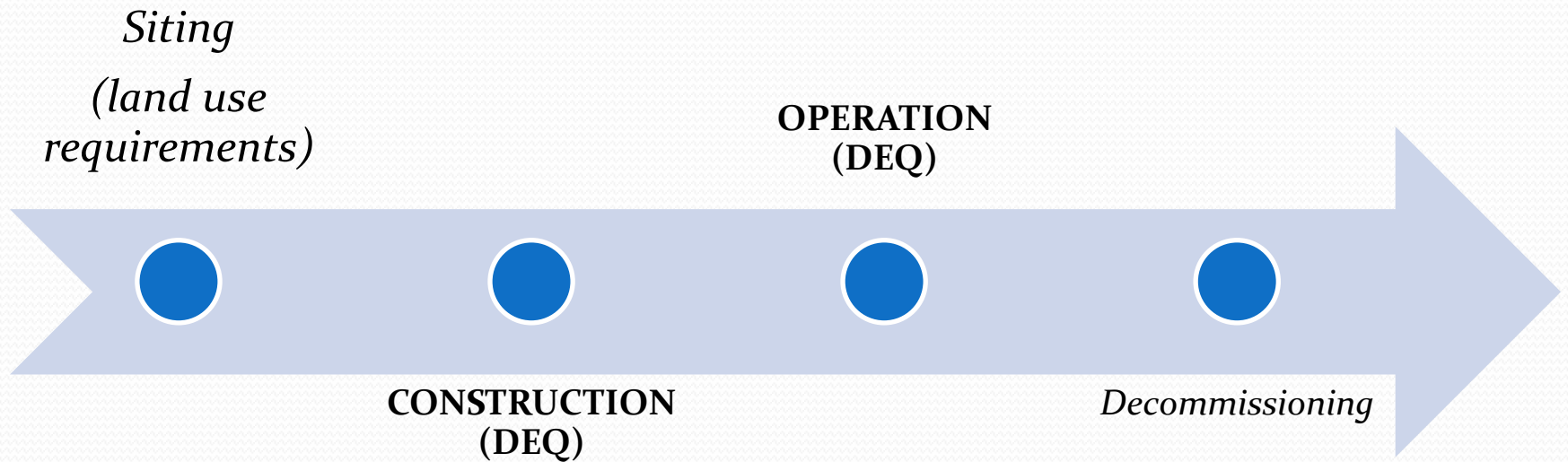




# MODEL ORDINANCES

DEQ going beyond statutory mandates to  
offer assistance to local governments

# Phases of a Project



# ***Local Government Authority***

- ***Siting*** – local government certification of project's compliance with local land use ordinances is PBR prerequisite
- ***Decommissioning***
- Health, safety, welfare
- Police powers

The role of local governments is critical in Virginia's development of renewable energy

# *Questions from Local Governments*



Low frequency noise?

Shadow flicker?

Sureties?

Height?

Audible noise?

Decommissioning?

Setbacks?

## *In response to these questions . . .*

- *DEQ Director appointed **informal stakeholder group** in February 2011*
- *To work under Director's aegis with facilitation by DEQ staff*
- *As requested by Secretary of Natural Resources*
- *And supported by Governor's Chief Energy Advisor*
- ***Local Government Outreach Group (LOG)** began meeting in March 2011*

# Local Government Outreach Group (LOG) includes stakeholders from:

❖ **Local Government**

❖ **NGOs/Citizens**

❖ **Developers**

❖ **State government**

❖ **Academia**



# LOG Accomplishments

# Completed . . .

- *Documents posted on DEQ's website:*
  - *Utility-Scale Model Wind Ordinance*
  - *Research studies & other resource materials*
- *Informational visits to existing wind projects*
- *Presentations at Environment Virginia 2012, JMU Wind Conference, local workshops, & other forums*

# *To be completed by year end . . .*

- **More Model Wind Ordinances**

- Community-Scale
- Residential-Scale

- **Model Solar Ordinances**

- Larger-Scale
- Smaller-Scale
- Solar Tax Exemption
- Solar Easement

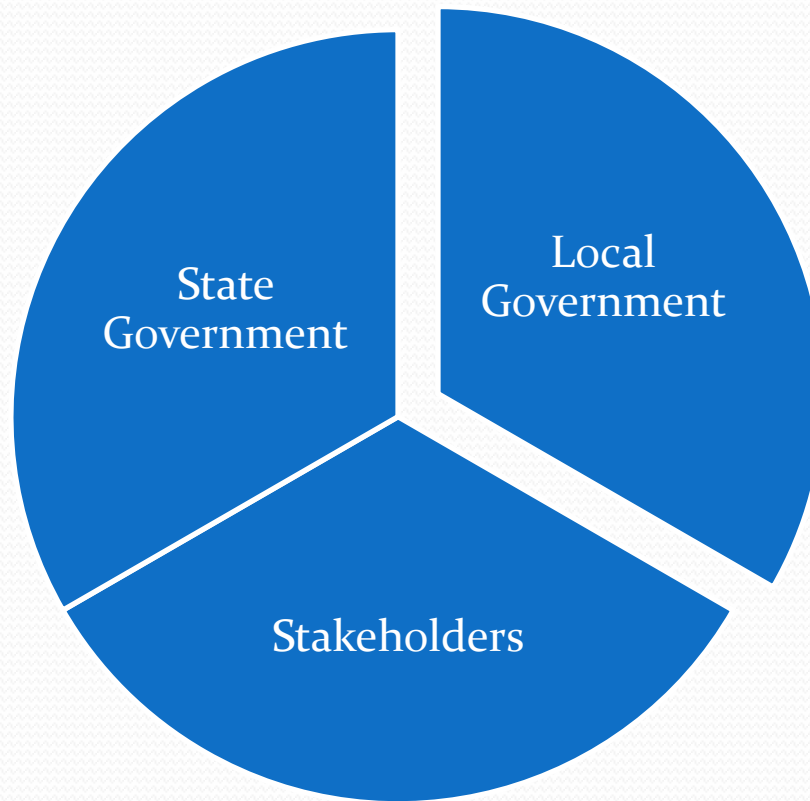
- All to be posted on DEQ's website

**Model  
ordinances are  
offered as  
resource  
information . . .**

that local  
governments may  
choose to consult  
when considering  
wind and solar  
projects.



# COLLABORATION . . .



# SUMMARY:

- **WIND:**
  - ✓ Regulations
  - ✓ Guidance
  - ✓ Model ordinances
- **SOLAR:**
  - ✓ Regulations
  - ✓ Guidance
  - ✓ Model ordinances
- **COMBUSTION:**
  - ✓ Regulations developed
  - ✓ Public Comment Period ends December 10
- **WATER RELATED:**
  - ✓ Determined no regulation necessary or appropriate

***For further information . . .***

**Website:**

[http://www.deq.virginia.gov/Programs/  
RenewableEnergy.aspx](http://www.deq.virginia.gov/Programs/RenewableEnergy.aspx)

**DEQ Staff:**

**804-698-4579**

[carol.wampler@deq.virginia.gov](mailto:carol.wampler@deq.virginia.gov)



Thank you  
for your interest

